

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

NO. 7:08-CR-37

JERROD C. SMITH,

v.

UNITED STATES,


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ORDER

This matter is before the Court on Petitioner's Motion for Reduction of Sentence and the Government's Motion to Dismiss. Petitioner seeks to challenge his sentence for his 2009 crack related conviction pursuant to The Fair Sentencing Act of 2010 (FSA).

A court may reduce a defendant's sentence if the Sentencing Commission has subsequently lowered a defendant's sentencing guideline range. 18 U.S.C. § 3582(c)(2). The FSA reduces the federal criminal penalties for crack cocaine and powder cocaine offenses by lowering the gram-penalty ratio from 100:1 to 18:1. On June 30, 2011, the United States Sentencing Commission voted to give retroactive effect to its amendment to the United States Sentencing Guidelines implementing the FSA. Retroactivity of the amendment will become effective on November 1, 2011, unless Congress acts to disapprove the amendment. The Court will thus DISMISS Petitioner's motion without prejudice, and Petitioner can re-file his motion after November 1, 2011.

SO ORDERED, this 5 day of August, 2011.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE